

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Jonathan Perfetto

v.

Civil No. 12-cv-393-JL

Walter Alexis et al.

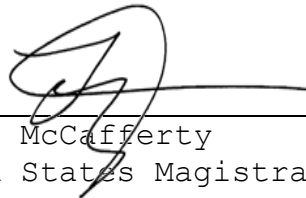
REPORT AND RECOMMENDATION

Before the court is Perfetto's notice of voluntary withdrawal of this action ([doc. no. 31](#)), and three other motions he has filed ([doc. nos. 23, 24, and 29](#)). The court construes the notice ([doc. no. 31](#)) as a motion to allow Perfetto to voluntarily dismiss this case, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. Although Perfetto states that he sent defendants a copy of his notice, defendants have not responded to his request to dismiss.

Perfetto states that he does not wish to pursue this action. Further, the notice of voluntary withdrawal states Perfetto's intention to exhaust his administrative remedies on his claims and then refile an action in this or another court. Perfetto's request to voluntarily dismiss this matter ([doc. no. 31](#)) should thus be granted, and the action should be dismissed without prejudice. See Fed. R. Civ. P. 41(a)(2). The other

pending motions filed by Perfetto (doc. nos. 23, 24, and 29) should be denied as moot.¹

Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).



Landya McCafferty
United States Magistrate Judge

December 6, 2013

cc: Jonathan Perfetto, pro se
John A. Curran, Esq.

LM:jba

¹Defendants have filed a motion to dismiss certain claims (doc. no. 28), a motion for discovery (doc. no. 32), and a motion to compel interrogatory answers (doc. no. 33). These matters have not been referred to this magistrate judge. The motions will be rendered moot, however, if the district judge accepts this recommendation to grant Perfetto's request for voluntary dismissal.